

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION**

**ALAN D. HALPERIN AND EUGENE I. DAVIS
AS CO-TRUSTEES OF THE APPVION
LIQUIDATING TRUST**

Plaintiff,

v.

Case No. 1:19-CV-1561

**MARK R. RICHARDS, THOMAS J. FERREE,
TAMI L. VAN STRATEN, JEFFREY J.
FLETCHER, KERRY S. ARENT, STEPHEN P.
CARTER, TERRY M. MURPHY, ANDREW F.
REARDON, KATHI P. SEIFERT, MARK A.
SUWYN, CARL J. LAURINO, DAVID A.
ROBERTS, ARGENT TRUST COMPANY,
STOUT RISIUS ROSS, INC., STOUT RISIUS
ROSS, LLC, JOHN/JANE DOES 1-40,**

Defendants.

**STOUT RISIUS ROSS, INC. AND STOUT RISIUS ROSS, LLC’S MOTION TO DISMISS
PLAINTIFF’S REVISED SECOND AMENDED COMPLAINT**

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendants Stout Risius Ross, Inc. and Stout Risius Ross, LLC (together, “Stout”) by and through their undersigned counsel, respectfully move the Court to dismiss Count VI of the Revised Second Amended Complaint (Dkt. 2) (“RSAC”) in its entirety. The grounds for dismissal, which are set forth more fully in the accompanying *Opening Brief in Support of Stout Risius Ross, Inc. and Stout Risius Ross, LLC’s Motion to Dismiss the Revised Second Amended Complaint* and the *Declaration of Lars C. Golumbic*, are:

1. Plaintiff's state law claim for aiding and abetting (Count VI) is preempted by the Employee Retirement Income Security Act of 1974, as amended ("ERISA").

2. To the extent not preempted, Count VI fails to state a claim upon which relief can be granted under Fed. R. Civ. P. 12(b)(6).

3. The Court should therefore dismiss the RSAC with prejudice as to Stout because Plaintiff has failed to state a claim for relief.

For these reasons and those set forth in Stout's contemporaneously filed Brief, Stout respectfully requests that the Court issue an Order dismissing all claims and causes of action asserted herein against Stout with prejudice and that the Court provide such other and further relief as the Court deems just and proper.

Dated: December 16, 2019

By: /s/Ross W. Townsend
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*Attorneys for Stout Risius Ross, Inc. and Stout
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CERTIFICATE OF SERVICE

I hereby certify that on this 16th day of December 2019, the foregoing was filed electronically. Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system.

By: /s/ Ross W. Townsend
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